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FO2248870

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: April 19, 2010

OFFICE CORRESPONDENCE FILE NO. FO2248870

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:
DEPUTY RICHARD CONTI #[redacted]
SPECIAL ENFORCEMENT BUREAU - CANINE SERVICES DETAIL**

On July 22, 2009, at approximately 1500 hours, Special Enforcement Bureau's Canine Services Detail Unit 240K93, Deputy Richard Conti deployed his canine while trying to locate a burglary suspect. The suspect, who secreted himself inside an outdoor storage receptacle, was subsequently found and apprehended. The encounter resulted in the suspect sustaining canine lacerations and an avulsion to his right arm. The suspect was subsequently hospitalized pending further surgery and treatment.

Earlier in the day, Santa Clarita Valley Station Deputies responded to [redacted] O'Hara Lane, Stevenson Ranch, regarding an emergency 9-1-1 call, reporting a residential burglary in progress. A resident, returning home, had surprised a burglar who subsequently ran from the location. A containment was established and Aero Bureau assisted as well as Canine Services Detail.

Canine announcements were made throughout the contained area in English and in Spanish. There was no response to the announcements. A search and arrest team, including Canine Services Deputy Richard Conti and his partner, was deployed and began searching yards in proximity to the victim's house. The canine subsequently located and bit Suspect Marcus Swayne who was hiding inside a subterranean storage container adjacent to a barbecue.

Suspect Swayne sustained canine lacerations and an avulsion to his right arm. He was transported via ambulance to Henry Mayo Hospital where he underwent emergency surgery. He was subsequently hospitalized pending further surgery and treatment.

On April 8, 2010, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Richard Conti #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by Deputy Richard Conti #[redacted] in this incident were within Department Policy.

Eric B. Smith, Commander

EBS:YLW/ylw

Los Angeles County Sheriff's Department

Supervisor's Report on Use of Force

Incident Information

URN: 409-12608-0661-064	Date: 7/22/09	Time: 1330 Hours	
Location: [redacted] O'Hara Lane		City or Station: Steven Ranch	
Bureau/Station/Facility: Santa Clarita Station		Admin. Investigation: YES [ ] NO [X]	
Type of Force: Significant / Dog Bite			
Deputy Injury: YES [ ] NO [X]	Suspect Injury YES [X] NO [ ]		
[X] Call	[ ] Observation	[ ] Detail	[ ] Foot Pursuit [ ] Vehicle Pursuit
IAB Notified: YES [X] NO [ ]	Person Notified: Lt. Scott Brickert	Emp: [redacted]	IAB Roll Out: YES [X] NO [ ]

Involved Employee

E1

Employee # [redacted]	Last Name: Conti	First Name: Richard	Middle Name: B.
Sex: [X] Male [ ] Female	Race: White	Unit of Assignment: Special Enforcement Bureau	Work Assignment (Unit #, Module, etc.): 240K93
Shift: [ ] EM [ ] Day [X] PM	[X] Regular Shift [ ] OT Shift [ ] Off Duty	Age: [redacted]	Height: 508 / Weight: 175
[ ] Injured [ ] Treated [ ] Admitted	Hospital:	Coroner Case #	Directed Force [ ] Significant Force [X]

E__

Employee #	Last Name	First Name	Middle Name
Sex: [ ] Male [ ] Female	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
Shift: [ ] EM [ ] Day [ ] PM	[ ] Regular Shift [ ] OT Shift [ ] Off Duty	Age:	Height: / Weight:
[ ] Injured [ ] Treated [ ] Admitted	Hospital:	Coroner Case #	Directed Force [ ] Significant Force [ ]

E__

Employee #	Last Name	First Name	Middle Name
Sex: [ ] Male [ ] Female	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
Shift: [ ] EM [ ] Day [ ] PM	[ ] Regular Shift [ ] OT Shift [ ] Off Duty	Age:	Height: / Weight:
[ ] Injured [ ] Treated [ ] Admitted	Hospital:	Coroner Case #	Directed Force [ ] Significant Force [ ]

[ ] **Additional Involved Employees**

On Duty Supervisor

Emp. #	Last Name	First Name	Middle Name	Rank	Present	Witness to Incident
[redacted]	Lee	Eric	R.	Sgt.	YES [X] NO [ ]	YES [ ] NO [ ]
					YES [ ] NO [ ]	YES [ ] NO [ ]

Watch Sergeant

Emp. #	Last Name	First Name	Middle Name
[redacted]	Allen	Brian	K.

Watch Commander

Emp. #	Last Name	First Name	Middle Name
[redacted]	Bryski	Tom	W.

Watch Commander (**Print** Name) | Watch Commander's **Signature**: | Emp #: | Date

Sergeant Jack Ramirez | [redacted]

Supervisor Completing Form: (Print Name) | Emp #: | Copy Provided to Employee by: | Emp #:

Unit Commander (**Print** Name) | Unit Commander's **Signature**: | Emp #: | Date

DISCOVERY Use Only

FO#

Original: Discovery Unit
Copy: Unit Commander

SH-R-438P (Rev. 12/07)

Supervisor's Report on Use of Force
SUSPECT INFORMATION
409 - 12608 - 0661 - 064

Suspect Information

S 1

Last Name: Swayne	First Name: Marcus	Middle Name: Antonio
AKA Last Name:	First Name:	Middle Name:

Sex: ☒ Male ☐ Female	Race: Blk	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]

Work Ph[redacted]	Home Phone: [redacted]	Age: 30	Height: 602	D.O.B. 03-04-79	Weight: 152	Armed? ☐

Booking #: 1991660 Primary Charge Code: 459 P.C. Secondary Charge Code: Criminal History [redacted]

EMT in attendance? ☒ YES ☐ NO Name: Captain Lanz Unit: #124 Phone #:

Hospital Admission? ☒ Rec'd Treatment At: Henry Mayo Memorial Hospital Coroner Case #: Mental History ☐

By Doctor: Privett Address: 23845 McBean Pkwy, Valencia, Ca. 91355 Phone #: 661-253-8000

Under Influence: ☐ YES ☒ NO Substance: Mental Illness ☐

Suspect Interview

Date: 07-22-09 Time: Audiotape: ☐ Videotape: ☐ Photos of Injuries: ☒

Suspect Information

S__

Last Name:	First Name:	Middle Name:
AKA Last Name:	First Name:	Middle Name:

Sex: ☐ Male ☐ Female	Race:	Street Address:	City:	State & Zip Code:

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed? ☐

Booking #: Primary Charge Code: Secondary Charge Code: Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: Unit: Phone #:

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case #: Mental History ☐

By Doctor: Address: Phone #:

Under Influence: ☐ YES ☐ NO Substance: Mental Illness: ☐

Suspect Interview

Date: Time: Audiotape: ☐ Videotape: ☐ Photos of Injuries: ☐

Suspect Information

S__

Last Name:	First Name:	Middle Name:
AKA Last Name:	First Name:	Middle Name:

Sex: ☐ Male ☐ Female	Race:	Street Address:	City:	State & Zip Code:

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed? ☐

Booking #: Primary Charge Code: Secondary Charge Code: Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: Unit: Phone #:

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case #: Mental History ☐

By Doctor: Address: Phone #:

Under Influence: ☐ YES ☐ NO Substance: Mental Illness ☐

Suspect Interview

Date: Time: Audiotape: ☐ Videotape: ☐ Photos of Injuries: ☐

☐ **Additional Suspects Involved**

Supervisor's Report on Use of Force

4 0 9 - 1 2 6 0 8 - 0 6 6 1 - 0 6 4

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE USED BY		FORCE USED AGAINST		Method (Code)	Type of Injury (Code)	Body Part (Code)
Name	E# or S#	Name	E# or S#			
Swayne, Marcus	S#1	Conti, richard	E#1	RS	NN	
Conti, Richard	E#1	Swayne, Marcus	S#1	CN	DB	AR

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

SIGNIFICANT FORCE INCIDENT SUMMARY

UNIT: Canine Services Detail, SEB
DATE: July 22, 2009, Wednesday
TIME: 1500 hours
LOCATION: [redacted] O'Hara Lane,
Stevenson Ranch, CA 91381
IAB#: FO2248870
URN#: 409-12608-0661-064

NATURE OF INCIDENT:

On Wednesday, July 22, 2009, at approximately 1500 hours, Canine Unit 240K93, Deputy Richard Conti, #[redacted] effected a canine deployment while attempting to locate a burglary suspect. The suspect, who secreted himself inside an outdoor storage receptacle, was subsequently found and apprehended. The encounter resulted in the suspect sustaining lacerations and an avulsion to his right arm.

Earlier in the day Santa Clarita Valley Station Deputies responded to [redacted] O'Hara Lane, Stevenson Ranch, regarding an emergency 911 call reporting a residential burglary in progress. A resident, returning home, had surprised a burglar who subsequently ran from the location. A containment was established and Aero Bureau assets as well as Canine Services Detail was requested and subsequently responded.

Canine announcements were made throughout the contained area in English and Spanish. There was no response to the announcements. A search and arrest team, including Canine Services Deputy Richard Conti and his partner were deployed and began searching yards in proximity to the victim's house. The canine subsequently located and bit Suspect Swayne who was hiding inside a subterranean storage container adjacent to a barbecue.

Suspect Swayne sustained canine lacerations and an avulsion to his right arm. He was transported via ambulance to Henry Mayo Hospital where he underwent emergency surgery. He was subsequently hospitalized pending further surgery and treatment.

The following review is based on written documentation, interviews of witnesses, involved deputies, and medical staff.

INVOLVED PERSONNEL:

CONTI, Michael- Deputy Sheriff, Employee #[redacted]
Canine Services Detail, SEB
Office of Homeland Security

Employee Work History:

Date of Employment:	09-12-1993
Date Assigned to Unit:	01-06-1995
Prior Founded Force Incidents:	[redacted]

INVOLVED SUSPECT:

SWAYNE, MARCUS

Sex:	Male
Race:	Black
Characteristics:	6'2" 152 Black / Brown
Date of Birth:	March 4, 979
Booking Number:	1991-660
Charge:	459 P.C. Burglary
Injury:	Contusion of the right arm

Suspect Swayne's Consolidated Criminal History System reveals that he has been [redacted]



IAB Note: A copy of Suspect Swayne's Criminal History is included in this report (Exhibit C).

DEPARTMENT WITNESSES:

None

NON DEPARTMENT WITNESSES:

1. [redacted] **FW/64 DOB.** [redacted]

INVOLVED EMPLOYEE STATEMENTS:

Deputy Richard Conti, #[redacted], was interviewed on December 28, 2009, at 1507 hours, by Internal Affairs Bureau Sergeant Jack Ramirez. The interview was conducted at Internal Affairs Bureau. Deputy Conti agreed to be interviewed without representation, and the interview was digitally recorded for review. The following is a summary of Deputy Conti's view of the incident.

Deputy Conti said he responded to the 26000 block of O'Hara Lane in the City of Stevenson Ranch regarding a residential burglary suspect who fled from deputies into a residential neighborhood.

He said once on scene, he contacted the handling unit 67 Days (Deputies Darland #[redacted] and Conroy #[redacted]). He said they told him that a home owner came home and surprised the suspect (later identified as Suspect Swayne) while he was burglarizing her home. The suspect fled from the home and was later spotted running through the neighborhood by responding units. Deputy Conti said at one point the suspect, along with a female suspect, attempted to hide inside of a garage where several children were playing. He said when deputies approached the garage, Suspect Swayne again ignored deputies orders to stop and then fled into the neighborhood. He said the female had been taken to the ground in order to effect an arrest.

Deputy Conti said prior to his search, he played a taped prerecorded canine announcements throughout the contained area. The announcements, played in both English and Spanish warned the suspect, and anyone in the area, that he was going to deploy a police dog to search for the suspect. He said it instructed the suspect to come out from were he was hiding or he may be bit by the police dog. He said he played the announcements from the P.A. system of his radio car as he drove westbound on Kavenagh Lane to northbound O'Hara Lane to Stein Way and back down O'Hara Lane toward Kavenagh Lane.

Deputy Conti said he waited before he deployed to give time for the suspect to surrender. He said the suspect continued to resist arrest by not coming out. He said the suspect was given ample time to surrender to him, to numerous uniformed deputies in the area and to the helicopter which was above.

Deputy Conti said he formed a search team consisting of Canine Services Detail and Santa Clarita Station deputies. He said as they were searching, they came to [redacted] O'Hara Lane. He said they contacted the home owner ([redacted] FW/45). Deputy Conti said Ms. [redacted] told Deputy Vasquez that as she heard the sirens and helicopter in the area, she heard someone attempting to forcibly open her front door. She said the

person must have been scared off and her door was never broken open.

Deputy Conti said the search took them to [redacted] O'Hara Lane. He said they made entry to the rear yard via a gate on the north side of the property. He said as they made their way into the backyard, he saw a pool on the south side of the backyard and a large step down barbeque area on the north side of the yard. He said the barbeque was "L" shaped. He said on one side of it there was a counter which was approximately eight feet long with two metal doors in the middle of it which led to a storage area. Deputy Conti said as he directed his dog to search the south side of the property, Deputy Vasquez opened the two small doors of the barbeque counter and held onto them.

He said once the south side of the yard was clear, he directed his dog to search the barbeque area. He said his dog entered the two small doors and searched left under the counter for approximately 15-20 seconds before they heard yelling coming from inside the storage area under the barbeque counter.

Deputy Conti said he immediately instructed the suspect to crawl out from the storage area. He said the suspect refused to come out at first. Deputy Conti said he could also hear the suspect struggling with his dog under the counter. He said after approximately 20 seconds of ordering the suspect out, Suspect Swayne finally crawled out from under the counter. He said once he could see the suspect was not armed, he removed his dog from the bite. He said Suspect Swayne was taken into custody without further incident.

Deputy Conti said he requested paramedics to respond to the location. He said L.A. County Fire Station #124 under the direction of Captain Lanz responded and treated Suspect Swayne for his injuries. Deputy Conti said the victim responded to the location and positively identified Suspect Swayne as the person who she saw burglarizing her home.

Deputy Conti said he was approximately 10-12 feet from Suspect Swayne when the bite occurred. He said the bite lasted for approximately 40 seconds. He said he spoke to Suspect Swayne at the hospital. He said he asked Suspect Swayne what happened when the dog initially made contact with him. He said Suspect Swayne replied by saying that he (Swayne) had passed out while hiding under the barbeque. Swayne said when he woke up the dog was biting him. Swayne told Deputy Conti that he did not know how long the dog was biting him before he woke up.

I.A.B. NOTE: Refer to Exhibit B, for a copy of Deputy Conti's Supplementary report submitted with this case file. Also see a copy of his transcribed interview submitted with this case file.

SUSPECT STATEMENTS:

Suspect Marcus Swayne, was interviewed on July 22, 2009, at Henry Mayo Memorial Hospital by Detective Henning. Suspect Swayne proceeded to tell Dective Henning that he was forced to burglarize the house at [redacted] O'Hara Lane, in Stevenson Ranch. He told Detective Henning that he owed some money to a bad guy that he refused to identify. Suspect Swayne admitted that he was inside the house and fled after the owner returned home. Suspect Swayne denied making entry through the patio door. Suspect Swayne said he never heard any K-9 announcements because the helicopter was making too much noise. Suspect Swayne told Detective Henning that it was too hot in the space he was hiding in, which caused him to pass out. Suspect Swayne said he came out of hiding after the dog bit him.

I.A.B. NOTE: Refer to Exhibit B, for a copy of Detective Henning's supplementary report. Detective Henning did not record his interview.

I.A.B. NOTE: Internal Affair's Investigators attempted to interview Suspect Swayne on July 22, 2009, at Henry Mayo Memorial Hospital. Due to him being sedated, no interview took place.

DEPARTMENT WITNESSES STATEMENTS:

None

NON-DEPARTMENT WITNESS STATEMENTS:

[redacted], told deputies that on July 22, 2009, at approximately, 1300 hours, she left her residence to run an errand. She said she returned home at approximately 1330 hours. She said she entered her home and walked into the dinning room, where she immediately noticed that the rear patio door was shattered. Victim [redacted] said when she walked into the living room, she looked upstairs and saw a male (later identified as Suspect Swayne) wearing a gray hat, a gray short sleeve shirt, walking down stairs. Victim [redacted] said she yelled out "what are you doing?" to Suspect Swayne. She said he ran down the stairs carrying a black computer case and a purse. She said he ran out the front door. Victim [redacted] said she followed him outside and saw him run northbound on Kavenah Avenue toward Salinger Lane.

I.A.B. Note: Refer Exhibit A, for a copy of Deputy Conroy's Incident Report Submitted with this case file.

SUSPECT INJURIES:

Suspect Swayne was treated by emergency room physician, Doctor Privett for canine lacerations and an avulsion on his right arm.

DEPUTY PERSONNEL INJURIES:

No Deputy personnel were injured during this incident.

PHYSICAL EVIDENCE:

No physical evidence was collected at the scene.

WEAPONS USED BY DEPUTY PERSONNEL:

Sheriff's Department Canine Unit.

WEAPONS USED BY SUSPECT:

Personal weapons (hands and feet).

PROPERTY DAMAGE:

None

CRIMINAL INVESTIGATOR and CHARGES FILED:

Investigator: [redacted]

Court: Newhall Superior Court
Charges Filed: 459 P.C. filed against Suspect Swayne,
459 P.C. and 496 P.C. filed against Suspect Felicia Norfolk
Case Status: Suspect Swayne took a (2) year plea. Suspect Norfolk pled out to County time.

WEATHER CONDITIONS AND LIGHTING CONDITIONS:

The weather was clear and Hot.